

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 283 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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TRIBHUVANDAS GANDALAL PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR MM TIRMIZI for Petitioner

MR BY MANKAD, APP for Respondent No. 1

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CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 03/11/1999

ORAL JUDGEMENT

Rule. Learned APP Mr. Mankad appears and waives service of Rule for the Respondents. Looking to the facts and circumstances of the case, criminal appeal which came to be dismissed for default by the learned Addl. Sessions Judge, Mirzapur vide order dated 18.10.1997 requires to be restored on the file of the learned Addl. Sessions Judge. Learned counsel appearing for the applicant has positively submitted that appeal

filed by co-accused is admitted and is pending before the Sessions Court.

Under the circumstances as aforesaid, dismissal of criminal appeal filed by the applicant herein for default would not justify the cause of substantive justice. Hence, impugned order dated 18.10.1997 passed by the learned Addl. Sessions Judge, Mirzapur in Cri.Appeal No. 5/1996 dismissing the said appeal for default of appearance, is hereby quashed and set aside and aforesaid Cri. Appeal No.5/1996 is ordered to be restored on the file of the learned Addl. Sessions Judge, Mirzapur and with a further direction to try and dispose of the same on merits and in accordance with law. It is, however, observed that applicant herein shall co-operate the Court in hearing and disposal of the said criminal appeal because appeal was dismissed for non appearance on his part. Learned Addl. Sessions Judge will also be at liberty to dismiss the appeal for default in appearance if there is non-cooperation on the part of the applicant.

Rule is made absolute.

3.11.1999 [ C.K. BUCH, J]

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